

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AL PEREIRA,

Plaintiff,

- against -

HIGHSNOBIETY INCORPORATED

Defendant.

Docket No. 1:17-cv-7261

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Al Pereira (“Pereira” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Highsnobiety Incorporated (“High” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American rapper and actor Tupac Shakur with rapper Notorious B.I.G. and Redman, owned and registered by Pereira, a New York based photographer. Accordingly, Pereira seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Pereira is a professional photographer in the business of licensing his photographs for a fee with a place of business at 1360 Ocean Parkway, Apt. 6M, Brooklyn, New York 11230

6. Upon information and belief, High is a domestic business corporation duly organized and existing under the laws of the State of New York, with a place of business at 25 Broadway, 9th Floor, New York, New York 10004. Upon information and belief, High is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, High has owned and operated a website at the URL: www.HighSnobiety.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Pereira took an iconic photograph of American rapper and actor Tupac Shakur with rapper Notorious B.I.G. and Redman (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Pereira is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph is registered with the United States Copyright Office and given registration number of VA 2-065-045.

B. Defendant’s Infringing Activities

10. High ran an article on the Website entitled *How the Black Panthers Influenced Today’s Music & Fashion*. See <http://www.highsnobiety.com/2016/03/02/black-panther-party->

influence-music-fashion/. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

11. High did not license the Photograph from Plaintiff for its article, nor did High have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST HIGH)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. High infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Website. High is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by High have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant High be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 25, 2017

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